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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/703,549	05/01/2000	Joseph Giovannoli		6863

7590 03/30/2005

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EXAMINER

KYLE, CHARLES R

ART UNIT	PAPER NUMBER
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3624

DATE MAILED: 03/30/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/703,549

Applicant(s)

GIOVANNOLI, JOSEPH

Examiner

Charles R Kyle

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-43 and 45 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1 and 2 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) 3-43 and 45 are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: ____.

DETAILED ACTION

Reissue Applications

The Examiner notes that Applicant has surrendered his Patent, U S number 5,842,178 and that the original patent document is now part of the file of this reissue application.

The Examiner notes that Applicant may have his originally issued Patent, U S number 5,842,178 returned if this application is abandoned and a request for return is received by Technology Center 3600. See MPEP Section 1416.

Applicant is reminded of the proper format for amendments to the specification of a reissue application. See 37 CFR 1.173.

Examiner's Note

Claims 1 and 2 are examined in the present office action. Applicant elected Claims 3-43 and 45 in response to the restriction requirement of September 7, 2004. The Examiner notes that Claims 1 and 2 of Group I are constructively elected as per MPEP 1450 and Claims 3-43 and 45 are withdrawn. The Examiner regrets any inconvenience.

As per MPEP 1450, if the original claims are found allowable, and a divisional application has been filed for the non-elected claims, further action in the application will be suspended, pending resolution of the divisional application.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

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The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Rejections of the prior office action under 35 U.S.C. 112, second paragraph are withdrawn based on Applicant's amendment.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-2 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cameron et al in view of Silverman et al.

Regarding Claim 1, Cameron et al disclose the invention substantially as claimed including in a system for engaging in commercial transactions (Abstract);

filter means for accepting filter conditions from buyers and sellers (Abstract, Summary of the Invention);

a plurality of buyer identifications representing buyers conforming to a seller defined class of buyers (Col. 9, line 49 to Col. 10, line 44) for communicating RFQs (Col. 14, lines 51-61) to said filter means, said RFQs being communicated to terminals to be received by sellers subject to said filter conditions ;

a plurality of seller identifications representing sellers (Col. 13, line 40 to Col. 14, line 61) for communicating quotes (Col. 1, line 5 to Col. 3, line 27) to said filter means

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in response to a specific RFQ of said RFQs (See also Fig. 20; Col. 14, line 38 to Col. 15, line 20);

and which quotes should be received by the buyer (Summary of the Invention).

Cameron et al do not specifically disclose that the filter means includes a bi-directional filtering of quote information to define seller/buyer classes as set forth in the amended Claims. Silverman et al disclose this feature at Col. 8, line 66 to Col. 9, line 20 and Fig. 2. In Silverman, the seller defines a class of buyers as well as the reverse. It would have been obvious to one of ordinary skill in the art at the time of the invention to have included the bi-directional filtering feature disclose by Silverman et al in the commercial system of Cameron et al because this would have allowed parties to view quotations from only those counter parties with whom they would most successfully and profitably deal. For example, a zip code filter element for screening suppliers would have allowed a buyer to send RFQs only to those nearby suppliers who could likely submit a competitive quote. See below. A buyer of a heavy auto batteries would not have wanted to submit RFQs to a battery supplier located across the country because such a supplier would have been non-competitive due to excessively high shipping costs. The buyer would only have wished to send RFQs to those sellers who might most cheaply deliver batteries.

Further, Silverman specifically discloses several criteria for filtering such as geographic location at Col. 1, lines 63+. The concept of bi-directional filtering on these bases occurs throughout Silverman.

Applicant has amended with the concept of sending information from buyers to sellers. Silverman also discloses this sending an "RFQ" from buyer to seller, in the form of negotiating position transmission at Col. 4, line 50 to Col. 5, line 67. Silverman specifically discloses that this is done to simplify the burdens of the system by allowing communication directly between individuals doing trading. See Col. 5, lines 8-15. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified Cameron with the information sending from buyer to seller disclosed by Silverman because this would have reduced the data processing load on the central filtering system. This reasoning also applies to the other claims reciting this new limitation.

The Examiner notes that Silverman discloses *direct* communication from buyer to seller, as argued by Applicant in Remarks.

Concerning Claim 2, Cameron et al disclose the invention substantially as claimed including in a method of utilizing a data network (Col. 4, line 54 to Col. 5, line 12) for advertising and selling items for sale by a seller (Abstract) including the steps of:

communicating, to centralized filter means (Abstract, Summary of the Invention), from a plurality of sellers (Background of the Invention; Col. 17, lines 4-58) the information indicating items offered for sale (Col. 1, line 5 to Col. 3, line 27) to at least one class of buyers (Col. 9, line 51 to Col. 10, line 43) to receive sale information;

communicating, to the centralized filter means, from a potential buyer, a category of item in which said buyer is interested (Col. 15, line 66 to Col. 16, line 48);

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using said centralized filter means to match buyer and seller supplied information (Summary of the Invention);

communicating an offer for sale from said seller for at least one item in said category of items indicated, to a buyer if said buyer is within said class and said items are within said category (Col. 13, line 28 to Col. 17, line 58) .

Cameron et al do not specifically disclose that the filter means includes a bi-directional filtering and communication of quote information to defined seller classes and as set forth in the Claim. Silverman et al disclose this feature at Col. 8, line 66 to Col. 9, line 20 and Fig. 2. It would have been obvious to one of ordinary skill in the art at the time of the invention to have included the bi-directional filtering feature disclosed by Silverman et al in the method of Cameron et al because this would have allowed parties to view quotations from only those counter parties with whom they would most successfully and profitably deal. Also, see the comments regarding filtering set forth in the rejection of Claim 1.

As to Applicants amendment to recite sending information as from buyers to sellers, see the discussion of Claim 1.

Response to Arguments

Applicant has amended the Claims to recite that RFQs are sent from buyers to sellers. Applicants arguments suggest that RFQs are sent from buyers to sellers directly, with no intermediate entity. See Applicants argument that RFQs are not stored in a database and are not sent from the centralized filter means at page 12 of the Remarks. The Claims do not recite these

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limitations. They require only that RFQs be sent from buyer to seller; this does not preclude an intermediate entity. Applicant argues these supposed limitations from the Specification at page 12, third paragraph. At page 13, Applicants allows that intermediate storage of any of the data (e.g., an RFQ sent from buyer to seller) is permitted in the invention. It is clear that the Claims do not require any such direct transmission of an RFQ from buyer to seller.

Nonetheless, as shown in the discussion of Claim 1, Silverman discloses such direct transmission.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Charles R Kyle whose telephone number is (703) 305-4458. The examiner can normally be reached on M-F 6:00-2:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vincent A Millin can be reached on (703) 308-1065. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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crk

March 21, 2005

Charles J.